

# **EXHIBIT 33**



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CLIENT/MATTER NUMBER  
012474-0427

September 8, 2020

**Via E-Mail**

Charles J. Nerko  
Offit Kurman  
10 East 40<sup>th</sup> Street, Suite 3500  
New York, NY 10016

**Re: Bessemer System Federal Credit Union**

Dear Charles:

I received your letter, dated September 3, 2020. Our position remains that no meritorious grounds for disqualification exist, for the reasons detailed in my August 10, 2020 correspondence. You are well aware that I have never suggested a “stay of legal ethics” or anything of the sort. Such hyperbole is both unnecessary and unproductive. What I have done is explained that Rule 3.9 makes further discussion about disqualification premature unless and until Bessemer’s “fraud” claim survives summary judgment and proceeds to trial.

As to the balance of your letter:

First, common sense dictates that one not defend his own deposition and I have never intended to do so. That said, Fiserv reserves fully its right to object to Bessemer conducting the deposition of its outside counsel and, at the very least, this matter will obviously require further discussion. (You don’t need to send me another letter about it now; I understand that Bessemer “reserves all of its rights and remedies.” Fiserv does as well.)

Second, while I appreciate your professed concern for my clients, they are sophisticated entities and capable of determining whether a conflict exists and whether or not to waive it. Rest assured, I have shared with them all of your many, many complaints, motions and letters. They are well informed about your positions.

Third, I confirm again that Fiserv will not assert waiver, laches or ongoing litigation activities in opposition to a disqualification motion based on the passage of time between the date of your initial letter on July 17, 2020, and the date of a motion that Bessemer files within a reasonable time after the parties have completed mediation and had a reasonable time to discuss these issues.

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I hope that we can now have a more productive focus on mediation.

Very truly yours,

*/s/ Andrew J. Wronski*

Andrew J. Wronski